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EXAMINER

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BROWN, T

ART UNIT

PAPER NUMBER

3304

DATE MAILED: 01/07/97

This is a communication from the examiner in charge of your application.
COMMISSIONER OF PATENTS AND TRADEMARKS

This application has been examined Responsive to communication filed on 10/15/96 This action is made final.

A shortened statutory period for response to this action is set to expire 3 month(s), 0 days from the date of this letter.
Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:

1. Notice of References Cited by Examiner, PTO-892.
2. Notice of Draftsman's Patent Drawing Review, PTO-948.
3. Notice of Art Cited by Applicant, PTO-1449.
4. Notice of Informal Patent Application, PTO-152.
5. Information on How to Effect Drawing Changes, PTO-1474.
6.

Part II SUMMARY OF ACTION

1. Claims 1-13 are pending in the application.

Of the above, claims _____ are withdrawn from consideration.

2. Claims _____ have been cancelled.

3. Claims _____ are allowed.

4. Claims 13 are rejected.

5. Claims _____ are objected to.

6. Claims _____ are subject to restriction or election requirement.

7. This application has been filed with informal drawings under 37 C.F.R. 1.85 which are acceptable for examination purposes.

8. Formal drawings are required in response to this Office action.

9. The corrected or substitute drawings have been received on _____. Under 37 C.F.R. 1.84 these drawings are acceptable; not acceptable (see explanation or Notice of Draftsman's Patent Drawing Review, PTO-948).

10. The proposed additional or substitute sheet(s) of drawings, filed on _____, has (have) been approved by the examiner; disapproved by the examiner (see explanation).

11. The proposed drawing correction, filed _____, has been approved; disapproved (see explanation).

12. Acknowledgement is made of the claim for priority under 35 U.S.C. 119. The certified copy has been received not been received been filed in parent application, serial no. _____; filed on _____.

13. Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.

14. Other

EXAMINER'S ACTION

The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 3, 5, 6, 7, 8, 9, 11, 12, 13 are rejected under 35 U.S.C. § 102(b) as being clearly anticipated by Barrett.

The following is a quotation of 35 U.S.C. § 103 which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Subject matter developed by another person, which qualifies as prior art only under subsection (f) or (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

Claim 10 is rejected under 35 U.S.C. § 103 as being unpatentable over Barrett in view of Carson. To make the tee of Barrett of biodegradable material would have been considered obvious in view of the teachings of Carson, since such would enhance grass growth as well as prevent litter due to the loss of the tee.

The following is a quotation of 35 U.S.C. § 103 which forms the basis for all obviousness rejections set forth in this Office

action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Subject matter developed by another person, which qualifies as prior art only under subsection (f) or (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

Claims 1, 2, 3, 7, 8, 11, 12, 13 are rejected under 35 U.S.C. § 103 as being unpatentable over Thompson.

Claims 1, 3, 11, 12, 13: Thompson teaches all of the claimed tee structure except the different size sections, the sections can be used alone or in various combinations. When used alone, each tee section will support a ball an equal height above a support. However, it would have been considered obvious to make the tee sections 10 of Thompson of various heights in view of the teachings of Scott, since such would provide a greater number of different tee heights for a golfer. Note: Thompson asserts the tee sections do not need to be identical (see column 1, page 1, lines 38-40).

Claims 26 and 7: Note the connectors 11 and 12 of Thompson.

Claim 8: Elements 11 of Thompson is capable of engaging a tee box.

Claims 4 and 5 are rejected under 35 U.S.C. § 103 as being

unpatentable over Thompson and Scott as applied to claim 1 above, and further in view of Fish et al.

To further modify the tee of Thompson to have a pyramid shape would have been considered obvious in view of the teachings of Fish et al, since a pyramid shape would enhance stability of the tee when placed upon a support surface.

Claim 5: Thompson discloses the claimed structure.

Claim 9 is rejected under 35 U.S.C. § 103 as being unpatentable over Thompson and Scott as applied to claim 1 above, and further in view of Lettrich. The use of plastic as a material for making golf tees is notoriously old in the art as shown by Lettrich. Therefore to construct the tee of Thompson from plastic material would have been considered obvious, since such material has been found to be extremely durable as well as inexpensive.

Claim 10 is rejected under 35 U.S.C. § 103 as being unpatentable over Thompson and Scott as applied to claim 1 above, and further in view of Carson. To further modify the tee of Thompson to be made of biodegradable material would have been considered obvious in view of the teachings of Carson, since such materials would enhance grass growth as well as reduce litter on the course due to lost tees.

Claims 3 and 8 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 3: The claim is seen to be redundant, since any body has a shape.

Applicant's amendment necessitated the new grounds of rejection. Accordingly, **THIS ACTION IS MADE FINAL.** See M.P.E.P. § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 C.F.R. § 1.136(a).

A SHORTENED STATUTORY PERIOD FOR RESPONSE TO THIS FINAL ACTION IS SET TO EXPIRE THREE MONTHS FROM THE DATE OF THIS ACTION. IN THE EVENT A FIRST RESPONSE IS FILED WITHIN TWO MONTHS OF THE MAILING DATE OF THIS FINAL ACTION AND THE ADVISORY ACTION IS NOT MAILED UNTIL AFTER THE END OF THE THREE-MONTH SHORTENED STATUTORY PERIOD, THEN THE SHORTENED STATUTORY PERIOD WILL EXPIRE ON THE DATE THE ADVISORY ACTION IS MAILED, AND ANY EXTENSION FEE PURSUANT TO 37 C.F.R. § 1.136(a) WILL BE CALCULATED FROM THE MAILING DATE OF THE ADVISORY ACTION. IN NO EVENT WILL THE STATUTORY PERIOD FOR RESPONSE EXPIRE LATER THAN SIX MONTHS FROM THE DATE OF THIS FINAL ACTION.

Any inquiry concerning this communication should be directed to T. Brown at telephone number (703) 308-3133.

T. Brown:bhw
December 31, 1996



THEATRICE BROWN
PRIMARY EXAMINER
ART UNIT 334